

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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GARY LA BARBERA, LAWRENCE KUDLA,  
DENNIS GARTLAND, THOMAS GESUALDI,  
THEODORE KING, CHESTER BROMAN,  
FRANK FINKEL and Joseph Ferrara, as  
Trustees and Fiduciaries of the Local 282 Welfare,  
Pension, Annuity, Job Training, and Vacation  
and Sick Leave Trust Funds,

Plaintiffs,

04 CV 1364 (SJ) (MDG)

- against -

**ORDER**

PASS 1234 TRUCKING, INC.,

Defendant.

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JOHNSON, Senior District Judge:

Before the Court is a Report and Recommendation ("the Report"), prepared by Magistrate Judge Marilyn D. Go<sup>1</sup> in response to an order of this Court.<sup>2</sup> Judge Go filed the Report on September 4, 2007, and provided the parties 10 days upon receipt of the Report to file any objections. No objections have been filed.

A district court judge may designate a magistrate judge to hear and determine

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<sup>1</sup> The Court thanks Judge Go for her work in this regard.

<sup>2</sup> Familiarity with the facts and procedural posture of the case are presumed.

certain motions pending before the Court and to submit to the Court proposed findings of fact and a recommendation as to the disposition of the motion. See 28 U.S.C. § 636(b)(1). Within 10 days of service of the recommendation, any party may file written objections to the magistrate's report. Id. Upon *de novo* review of those portions of the record to which objections were made, the district court judge may affirm or reject the recommendations. Id. The Court is not required to review, under a *de novo* or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the report and recommendation to which no objections are addressed. See Thomas v. Arn, 474 U.S. 140, 150 (1985).

As mentioned, no objections were filed within the allotted time period. Therefore, this Court adopts and affirms the Report in its entirety and awards the Funds judgment against Pass the following damages: (a) \$134,538.24 for unpaid contributions; (b) \$83,212.17 (\$82,445.43 + \$58.98 \* 13 (days after September 15, 2007)) for pre-judgment interest; (c) \$83,212.17 (\$82,445.43 + \$58.98 x 13 (days after September 15, 2007)) for additional interest; (d) \$6,681.00 in attorney's fees; (e) \$1552.00 in costs. The Court thus awards the Funds damages in the amount of \$307,662.10.<sup>3</sup> Further, this Court adopts Magistrate Go's recommendation that the

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<sup>3</sup> Magistrate Judge Go calculated the total damages to be in the amount of \$302,235.94. This Court attributes this figure to a miscalculation of Magistrate Judge Go's individual findings. The figure above accurately reflects the amount of damages found in the Report and Recommendation.

Funds' request for a permanent injunction be denied.

SO ORDERED.

/s/(SJ)

Dated: September 28, 2007

Brooklyn, NY

Senior U.S.D.J.